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UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

In re)	Case No. 16-31325 HLB
)	Chapter 11
WRAP MEDIA, LLC)	
)	
Debtors.)	

In re)	Case No. 16-31326 HLB
)	Chapter 11
WRAP MEDIA, INC.)	
)	
Debtors.)	

<input type="checkbox"/> Affects LLC)	DATE: March 2, 2017
<input type="checkbox"/> Affects Inc.)	TIME: 11:00 a.m.
<input checked="" type="checkbox"/> Affects BOTH DEBTORS)	JUDGE: Hon. Hannah L. Blumenstiel
)	COURT: 19

**STATEMENT REGARDING MOTION FOR USE OF CASH COLLATERAL
AND BORROWING MOTION**

TO: SILICON VALLEY BANK, THE CREDITORS COMMITTEE, PARTIES IN INTEREST AND
THE UNITED STATES TRUSTEE

1 At the hearing on March 2, 2017, the Debtors will ask that the Court set a final hearing on the
2 Use of Cash Collateral and Debtor in Possession Financing for the latter part of March¹, and continue in
3 effect its existing Interim Orders until that hearing.

4 As presented at greater length in its Status Report; Dkt #103; the Debtors have recently
5 concluded that their only viable exit is a sale of their technology. The Debtors are currently engaged in
6 early due diligence with four potential buyers and have interviewed and are in negotiations with several
7 potential investment bankers.

8
9 **1. Operations**

10 The Status Report presented the Debtors' conclusions that the optimal sale process would
11 include maintaining some operations and retaining some employees. At least three of the four potential
12 buyers with whom the Debtors are entering into diligence have confirmed that maintaining operations
13 and potentially transferring knowledgeable employees are essential to their interest in the Debtors'
14 assets.

15 The Debtors have substantially reduced their burn rate, reducing administrative rent from more
16 than \$70,000 per month to \$16,000 per month and reducing headcount from 24 when the case was filed
17 to 8 at present. Nonetheless, as reflected in the attached partial budget, funding ongoing operations for
18 several months will require material borrowings and thus creates a strong incentive for an expeditious
19 sale process.

20
21 **2. Professionals**

22 The Status Report also explains that the Debtor believes that it is essential to rely on an
23 investment banker and sophisticated mergers and acquisition counsel to lead the sale process. The
24 Debtors have identified suitable mergers and acquisition counsel in the form of Carr & Ferrell, LLP, and
25 have submitted an application for an Order authorizing its employment.

26
27 ¹ Mr. Greenberg is unavailable much of the second week of March; Debtor's counsel has commitments that
28 week, including a Ninth Circuit argument. Mr. Greenberg is available the third week of March, but Debtor's
counsel is unavailable March 23, and 24, 2017.

1 Thus far, the Debtors have not identified a suitable investment banker who is willing to accept
2 the engagement without some form of indemnification. The investment banker must have industry
3 specific expertise to properly market the Debtors' technology, patents and assets; it is not a type of
4 transaction that resembles a physical asset disposition where many broker options are available.

5 The Debtors have been attempting to negotiate an agreement that will suitably address concerns
6 that have been raised in the local community about the scope of the indemnity while nonetheless
7 allowing it the benefits of a capable investment banker, but that process is ongoing and has not yet
8 reached a satisfactory conclusion. The Debtors fear that without an indemnity they will not be able to
9 engage an investment banker, and without an investment banker the optimal sale process will not be
10 available.

11 In the unique circumstances of this case, the Debtor believes that the Court should favorably
12 consider these requests for an indemnity. The principal assets to be sold are patents, technology and
13 intellectual property rights (collectively, the "IP"). An investment banker cannot independently
14 determine the nature, extent, validity and value of the IP; it must necessarily rely on the Debtor's
15 assertions; all the more so where, as here, the IP is cutting edge technology and the Debtor is seeking a
16 very rapid sale process. Under the circumstances, the investment bankers' concerns about accepting the
17 engagement without a form of indemnity are reasonable.

18 In any event, the Debtors will present the best available proposal to the Committee and the
19 Court, and will attempt to address any issues that arise.

20 21 **3. Duration**

22 The sale process the Debtor believes to be optimal would likely extend for three to five months,
23 require funding the Debtors' burn rate for the duration of the marketing process, partially estimated in
24 the attached partial budget. In addition, it seems likely that the Debtor would be required to fund on the
25 order of \$100,000 to the investment banker, \$60,000 to the mergers and acquisition counsel and \$50,000
26 to patent counsel in order to prevent degradation to the IP during the marketing period. In order to
27 proceed, the Debtor must select and engage an investment banker, and reach agreement with its banker
28

1 on the duration and expense of the sale process, and determine whether its lender can provide what is
2 required to fund that process.

3 Based on talking with several bankers and IP experts, the Debtors believe the optimal sale
4 process may likely result in payment in full for all administrative claimants (including repayment of the
5 DIP Financing); payment in full of all creditors of the LLC, and material payment, if not payment in
6 full, for all creditors of the corporation.

7 Indeed, the DIP Lender is providing the funding motivated by the prospect of obtaining a return
8 on the \$3 million of convertible debt its affiliate is owed by the corporate Debtor.

9 10 **4. Conversion**

11 The alternative to the proposed sale process would appear to be conversion to Chapter 7, which
12 would not require further borrowings, but which the Debtors believe would likely result in a
13 substantially reduced recovery. As stated above, in a Chapter 7 case, three of the four acquisition
14 candidates currently in diligence will likely disappear, the patent actions will go unanswered causing a
15 degradation to the IP, and there will be no knowledgeable staff to assist in marketing the technology and
16 the IP portfolio. The IP are assets about which specialized understanding and knowledge is required,
17 both on the part of the bankers and to meet the thresholds of due diligence that yield meaningful
18 financial bids. More dramatically, upon conversion the technology platform would be taken down, and
19 the software would be impossible to demonstrate or evaluate – or to even recreate in a meaningful way
20 during the short timeframes of this asset disposition.

21 22 **5. Need for Continued Hearing**

23 Before a choice between these alternative dispositions can reasonably be made, the Debtors
24 believe that they should identify an appropriate and available investment banker, produce a realistic
25 budget for the marketing period, and consult with the Committee to attempt to reach consensus on the
26 path forward.

27 To date, the Debtors have not completed any of these tasks, but they expect to be able to
28 accomplish all of them within two to three weeks. The Debtors therefore believe that it would be

1 premature to determine the path forward on March 2nd, but that it would be appropriate at a continued
2 hearing in the third week of March for the parties and the Court to make a decision on the best path
3 forward.

4 At the continued hearing, the Court should decide whether to proceed with the sale process the
5 Debtors believe to be optimal. As part of considering the Debtors' proposed sale process, it should
6 consider the terms on which an investment banker can be employed, and the Debtors' request to provide
7 current compensation to the investment banker, mergers and acquisition counsel and patent counsel,
8 absent which the sale process proposed by the Debtors will not be viable. The Debtors will provide a
9 Proposed Budget to the Committee and the Court prior to the continued hearing, which will identify the
10 expenses it anticipates through the sale process, and will ask that the DIP Financing and use of cash
11 collateral be approved at the continued hearing on a final basis in the amounts necessary to
12 accommodate the Proposed Budget. (Pending the continued hearing, the Debtors agree that the
13 Committee reserves all of its rights and claims.)

14 Pending the continued hearing, the Debtors would propose to maintain the *status quo* on the
15 same basis as under the existing Interim Orders: it would submit a proposed Order authorizing it to
16 continue the use of cash collateral until the continued hearing, substantially identical to the prior Order.
17 The prior Interim Financing Order authorized an aggregate borrowing of \$1 million. To date, \$150,000
18 of that authorization has not been expended. As reflected in the attached partial budget, the Debtors can
19 operate under that prior authorization through March 24, 2017.

20 Respectfully submitted,

21 DATED: February 27, 2017

ST. JAMES LAW, P.C.

23 By: /s/ Michael St. James

Michael St. James

24 Counsel for Debtors

PROPOSED PARTIAL BUDGET

(excludes Investment Banker and Corporate Counsel Fees)

Wrap Media Summary of Cash Burn & Outstanding Liability

Estimated Cash Burn		
Salaries & Taxes (See EE Schedule)	\$	124,650
Employee Benefits	\$	11,000
Operating Costs (See Detail A Below)	\$	29,787
Admin Costs (See Detail B Below)	\$	18,500
Professional Fees (See Detail C Below)	\$	40,000
Interest Expense (SVB & DiP Loan)	\$	13,611
Total Est Monthly Cash Burn	\$	237,548
A - Operating Costs Detail		
Amazon Web Services	\$	7,500
Travel & Related Expense	\$	10,000
Engineering & Design Contractors	\$	8,500
Other Software Services	\$	3,787
Total Operating Costs	\$	29,787
B - Admin Costs Detail		
Rent	\$	16,000
Other Admin & Facility Costs	\$	2,500
Total Admin Costs	\$	18,500
C - Professional Fees Detail		
Legal - IP - Beyer Law	\$	20,000
Legal - General	\$	-
Legal - DiP Lender	\$	10,000
Investment Banker for Sale	\$	-
Accounting & HR Consulting	\$	10,000
Total Professional Fees	\$	40,000

Employee Listing - 8 Total	Annual Salary	Monthly Salary
██████████ - CEO	\$ 200,000	\$ 16,667
██████████ - SVP Platform	\$ 210,000	\$ 17,500
██████████ - VP Technology	\$ 200,000	\$ 16,667
██████████ - Sr. DevOps Engineer	\$ 180,000	\$ 15,000
██████████ - Sr. Platform Engineer	\$ 170,000	\$ 14,167
██████████ - Sr. Front End Engineer	\$ 135,000	\$ 11,250
██████████ - VP Intellectual Property (Half Time)	\$ 150,000	\$ 12,500
██████████ - Administration	\$ 140,000	\$ 11,667
Total Salaries	\$ 1,385,000	\$ 115,417
Payroll Taxes	\$ 110,800	\$ 9,233
Total Salaries & Taxes	\$ 1,495,800	\$ 124,650

Outstanding Liabilities	
Pre-Bankruptcy Claims - Trade Creditors & Employees	
Engineerign & Design Consultants	\$ 81,172
Sales & Marketing Consultants	\$ 63,990
Legal Fees	\$ 111,985
Office & Administrative	\$ 109,458
Credit Cards	\$ 6,116
Employee Claims (PTO, Commissions, Expenses)	\$ 65,869
Total Pre-Bankruptcy Trade Creditor & Employees	\$ 438,589
Pre-Bankruptcy Claims - Debt	
Silicon Valley Bank Loan	\$ 2,000,000
Dream Incubator Convertible Note (w/ Accrued Int)	\$ 4,235,000
Innovation Investments Convertible Note (w/ Accrued Int)	\$ 3,050,000
Salesforce Convertible Note (w/ Accrued Int)	\$ 2,625,000
Total Pre-Bankruptcy Debt	\$ 11,910,000
Current Liability - Trade Creditors & Employees	
Engineerign & Design Consultants	\$ 5,000
Legal Fees	\$ 26,980
Office & Administrative	\$ 19,368
Credit Cards	\$ 27,455
Employee Claims (PTO, Commissions, Expenses)	\$ 3,637
Total Current Liabilities	\$ 82,439
DiP Loan Outstanding	\$ 800,000
Total Outsanding Liabilities	\$ 13,231,028

Wrap Media
Short Term Cash Plan
(As of 2/6/16)

	2/15/2016	2/28/2016	Total Feb 2017	3/15/2016	3/31/2016	Total Mar 2017	4/15/2016	4/30/2016	Total Apr 2017	5/15/2016	5/31/2016	Total May 2017	6/15/2016	6/30/2016	total June 2017
Beginning Unrestricted Cash (12/10/16)	40,063	145,639	40,063	103,873	90,671	103,873	146,902	136,179	146,902	118,604	107,881	118,604	106,306	95,583	106,306
DIP Loan Proceeds	300,000	100,000	400,000	150,000	100,000	250,000	100,000	100,000	200,000	100,000	100,000	200,000	100,000	100,000	200,000
AR Cash Receipts	142,195	550	142,745	32,500	69,300	101,800	15,000	0	15,000	15,000	0	15,000	15,000	0	15,000
Payroll & Related Taxes	(210,485)	(113,434)	(323,919)	(83,693)	(64,069)	(147,762)	(62,325)	(62,325)	(124,650)	(62,325)	(62,325)	(124,650)	(62,325)	(62,325)	(124,650)
Employee Health Benefits	7,758	(18,198)	(10,440)	0	(11,000)	(11,000)	0	(11,000)	(11,000)	0	(11,000)	(11,000)	0	(11,000)	(11,000)
Engineering Expenses	(14,100)	(6,080)	(20,180)	(12,500)	(2,500)	(15,000)	(6,000)	(2,500)	(8,500)	(6,000)	(2,500)	(8,500)	(6,000)	(2,500)	(8,500)
Sales & Marketing Expenses	(28,206)	0	(28,206)	(5,000)	(5,000)	(10,000)	(5,000)	(5,000)	(10,000)	(5,000)	(5,000)	(10,000)	(5,000)	(5,000)	(10,000)
Admin & Office Expenses	(66,598)	(4,604)	(71,202)	(68,000)	(6,000)	(74,000)	(33,787)	(11,000)	(44,787)	(33,787)	(6,000)	(39,787)	(33,787)	(6,000)	(39,787)
Legal Fees	(14,802)	0	(14,802)	(17,898)	(20,000)	(37,898)	(10,000)	(20,000)	(30,000)	(10,000)	(8,000)	(18,000)	(10,000)	0	(10,000)
Interest Payments	(10,186)	0	(10,186)	(8,611)	(4,500)	(13,111)	(8,611)	(5,750)	(14,361)	(8,611)	(6,750)	(15,361)	(8,611)	(7,750)	(16,361)
Ending Unrestricted Cash	145,639	103,873	103,873	90,671	146,902	146,902	136,179	118,604	118,604	107,881	106,306	106,306	95,583	101,008	101,008
Cash In	442,195	100,550	542,745	182,500	169,300	351,800	115,000	100,000	215,000	115,000	100,000	215,000	115,000	100,000	215,000
Cash Out	(336,619)	(142,316)	(478,935)	(195,702)	(113,069)	(308,771)	(125,723)	(117,575)	(243,298)	(125,723)	(101,575)	(227,298)	(125,723)	(94,575)	(220,298)
Net Change in Unrestricted Cash	105,576	(41,766)	63,810	(13,202)	56,231	43,029	(10,723)	(17,575)	(28,298)	(10,723)	(1,575)	(12,298)	(10,723)	5,425	(5,298)
Total Non-Payroll OPEX Costs	(123,706)	(10,684)	(134,390)	(103,398)	(33,500)	(136,898)	(54,787)	(38,500)	(93,287)	(54,787)	(21,500)	(76,287)	(54,787)	(13,500)	(68,287)

Wrap Media, LLC - Operating Plan

Ending Cash Projection	Cash Receipts	DiP Loan	SVB & DiP Loan Interest	Non Payroll Expected Costs	Health Benefits	Payroll, Taxes & Commissions	Gross Burn	Ending Unrestricted Cash	DiP Loan Bal
2/15/2016	142,195	300,000	(10,186)	(123,706)	7,758	(210,485)	105,576	145,639	800,000
2/28/2016	550	100,000	0	(10,684)	(18,198)	(113,434)	(41,766)	103,873	900,000
3/15/2016	32,500	150,000	(8,611)	(103,398)		(83,693)	(13,202)	90,671	1,050,000
3/31/2016	69,300	100,000	(4,500)	(33,500)	(11,000)	(64,069)	56,231	146,902	1,150,000
4/15/2016	15,000	100,000	(8,611)	(54,787)		(62,325)	(10,723)	136,179	1,250,000
4/30/2016	0	100,000	(5,750)	(38,500)	(11,000)	(62,325)	(17,575)	118,604	1,350,000
5/15/2016	15,000	100,000	(8,611)	(54,787)		(62,325)	(10,723)	107,881	1,450,000
5/31/2016	0	100,000	(6,750)	(21,500)	(11,000)	(62,325)	(1,575)	106,306	1,550,000
6/15/2016	15,000	100,000	(8,611)	(54,787)		(62,325)	(10,723)	95,583	1,650,000
6/30/2016	0	100,000	(7,750)	(13,500)	(11,000)	(62,325)	5,425	101,008	1,750,000

Unrestricted Cash reconciliation

First Republic Checking	0
SVB	83
Bank of the West	145,556
Restricted Cash	386,000
LiquidSpace Deposit	16,000
Exclude: Letter of Credit	(336,000)
Exclude: CD to secure Amex cards	(50,000)
Exclude: LiquidSpace Deposit	(16,000)
Outstanding Items	
Cash end of Period 2/15	145,639
	0

Estimated Monthly Burn

Payroll & Taxes	(124,650)
Commissions	0
Health Benefits	(11,000)
SVB Loan Int	(8,611)
DiP Loan Int	(5,000)
Non Payroll OPEX Costs	(88,287)
Monthly Burn	(237,548) **
<u>Non-Payroll OPEX Costs</u>	
Engineering Expenses	8,500
Sales & Mktg Expenses	10,000
Admin & Office Expenses	39,787
Legal Fees	30,000
	88,287 See Detail

**** Note: Represent High Level Estimate, Actual Projected Amounts per Month may vary due to one time charges and best estimate of Variable charges. See OPEX detail for estimated Monthly payments**

Wrap Media
Non-Headcount Related Costs

<u>Engineering Expenses</u>	Feb 15th Pymts	Feb 28th Pymts	Mar 15th Pymts	Mar 31 Pymts	Apr 15th Pymts	Apr 30 Pymts	May 15 Pymt	May 31 Pymts	June 15th Pymts	June 30 Pymts	
Abstracta	-	2,880	-	-	-	-	-	-	-	-	R&D consultants
Production Design Contractors	2,100	-	2,500	2,500	2,500	2,500	2,500	2,500	2,500	2,500	Design Conultants
Eammune/Infosec	12,000	-	5,000	-	3,500	-	3,500	-	3,500	-	Security/enterprise-readiness cons
Security Auditors	-	3,200	5,000	-	-	-	-	-	-	-	
IT Consulting	-	-	-	-	-	-	-	-	-	-	IT consulting
Total Engineering Expenses	14,100	6,080	12,500	2,500	6,000	2,500	6,000	2,500	6,000	2,500	
<u>Sales & Marketing Expenses</u>											
Investment Banker for Sale	-	-	-	-	-	-	-	-	-	-	Marketing, lead-gen
Carr Ferrell Legal	-	-	-	-	-	-	-	-	-	-	General Legal
MediaLink	25,000	-	-	-	-	-	-	-	-	-	Marketing, lead-gen
Travel & Related Expenses (CC Payments	3,206	-	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	Travel & Related Expenses
Sales Consultants	-	-	-	-	-	-	-	-	-	-	Sales Consultant
Total Sales & Marketing Expenses	28,206	-	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	
<u>Admin & Office Expenses</u>											
Court Admin - US Trustee Fee (per qtr)	-	-	-	-	-	5,000	-	-	-	-	US Trustee Fee
Credit Card Pymts (See Below for charge	23,032	-	30,000	-	11,787	-	11,787	-	11,787	-	Credit Card Chages
Kranz & Associates	7,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	Finance & Accounting Consultant
Lender Admin Fees	3,000	-	7,000	-	-	-	-	-	-	-	Admin fees for Lender
LiquidSpace	30,857	-	16,000	-	16,000	-	16,000	-	16,000	-	Rent
Misc	2,709	(396)	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	Misc Office Admin
Rust / Omni	-	-	2,000	-	-	-	-	-	-	-	Internet Connection
Delaware Franchise Tax	-	-	7,000	-	-	-	-	-	-	-	SF and Delaware Tax
USPTO	-	-	-	-	-	-	-	-	-	-	Paten Filing Fee, 4 payments (Jan
Total Admin & Office Expenses	66,598	4,604	68,000	6,000	33,787	11,000	33,787	6,000	33,787	6,000	
<u>Legal Fees</u>											
Beyer Law Group LLP	-	-	-	20,000	-	20,000	-	8,000	-	-	IP Legal
Harvey Siskind - IP	-	-	-	-	-	-	-	-	-	-	IP Legal
Pachulski Stang Ziehl & Jones LLP	14,802	-	17,898	-	10,000	-	10,000	-	10,000	-	Trustee Legal
Total Legal Fees	14,802	-	17,898	20,000	10,000	20,000	10,000	8,000	10,000	-	
Total Non-Headcount Related Costs	123,706	10,684	103,398	33,500	54,787	38,500	54,787	21,500	54,787	13,500	
<u>Credit Card Charges</u>											
	Feb Payments	Mar Payments	Apr Payments	May Payments	June Payments	Comments					
8X8, INC.	344	-	-	-	-	Telecom					
Adobe Systems	75	100	100	100	100	SW tool subscription					
Atlassian	99	930	930	930	930	SW tool subscription					
Amazon Web Services	21,473	7,500	7,500	7,500	7,500	Bandwidth/hosting					
BambooHR	-	180	180	180	180	SW tool subscription					
Bill.com, Inc	-	100	100	100	100	SW tool subscription					
Browser Stack	39	-	-	-	-	SW tool subscription					
Cirrus	-	84	84	84	84	SW tool subscription					
CloudCraft	-	-	-	-	-	SW tool subscription					
CLOUDFLARE	-	20	20	20	20	SW tool subscription					
Eden	-	-	-	-	-	Office/meal setup/take-down					
Elev.io	-	-	-	-	-	SW tool subscription					
Expensify	36	100	100	100	100	SW tool subscription					
EZTexting	50	-	-	-	-	SW tool subscription					
FEDEX	26	250	250	250	250	Postage					
GETTY IMAGES	-	99	99	99	99	SW tool subscription					
GitHub	96	100	100	100	100	SW tool subscription					
Google	557	600	600	600	600	SW tool subscription					
Harvest	12	-	-	-	-	SW tool subscription					
Intuit	40	40	40	40	40	SW tool subscription					
LeapFin	-	-	-	-	-	SW tool subscription					
Misc Charges	(522)	500	500	500	500	Misc					
New Relic	2,700	-	-	-	-	SW tool subscription					
Office Supplies / Cafeteria	-	400	400	400	400	Office Supplies					
PagerDuty	826	100	100	100	100	SW tool subscription					
Optimizley	399	-	-	-	-	SW tool subscription					
Pingdom	-	15	15	15	15	SW tool subscription					
SHUTTERSTOCK, INC	-	199	199	199	199	SW tool subscription					
Slack	-	400	400	400	400	SW tool subscription					
SpeedCurve	32	-	-	-	-	SW tool subscription					
Travel Related (in Sales Budget above)	58	-	-	-	-						
Typeform	-	70	70	70	70	SW tool subscription					
Total Credit Card Charges	0	26,340	0	11,787	0	11,787					